

1 Anthony Schoenberg (*pro hac vice*)
California Bar No. 203714
2 aschoenberg@fbm.com
David J. Lazerwitz (*pro hac vice*)
3 California Bar No. 221349
dlazerwitz@fbm.com
4 Kelly M. Matayoshi (*pro hac vice*)
California Bar No. 284596
5 Laura Pedersen (*pro hac vice*)
California Bar No. 313570
6 FARELLA BRAUN + MARTEL LLP
235 Montgomery Street, 17th Floor
7 San Francisco, California 94104
Telephone: (415) 954-4400
8 Facsimile: (415) 954-4480

9 DENNIS L. KENNEDY
Nevada Bar No. 1462
10 BAILEY ❖ KENNEDY
8984 Spanish Ridge Avenue
11 Las Vegas, Nevada 89148-1302
Telephone: 702.562.8820
12 Facsimile: 702.562.8821
dkennedy@baileykennedy.com

13 Attorneys for Nevada Links, Inc.
14

15 UNITED STATES DISTRICT COURT
16 DISTRICT OF NEVADA
17

18 UNITED STATES OF AMERICA,
19
20 Plaintiff,
21 vs.
22 COUNTY OF CLARK, et al.,
23 Defendant.

Case No. 2:17-cv-02303-MMD-PAL

**DECLARATION OF GREG REGAN IN
SUPPORT OF DEFENDANT NEVADA
LINKS, INC.'S APPENDIX TO MOTION
FOR SUMMARY JUDGMENT OR, IN
THE ALTERNATIVE, SUMMARY
ADJUDICATION**

(Hearing Requested)

The Hon. Miranda M. Du

1 I, Greg Regan, declare as follows:

2 1. I am a Partner in the Forensic and Financial Consulting Services Group of
3 Hemming Morse, LLP, and have been retained by Nevada Links, Inc. as an expert witness in the
4 above-captioned case. I issued an expert report in this matter dated December 21, 2018 in which I
5 set forth my qualifications and compensation. I make this declaration in support of Nevada Links,
6 Inc.'s Motion for Summary Judgment or, in the Alternative, Summary Adjudication ("Motion"). I
7 have personal knowledge of the facts set forth herein, or I am informed and believe that they are
8 true. If called as a witness, I could and would testify competently as to these facts.

9 2. I have reviewed the Appraisal Report of an Assumed Vacant Parcel of Land dated
10 July 26, 2017 concerning the property located at 5160 South Las Vegas Boulevard, Las Vegas,
11 Nevada prepared by Glenn M. Anderson (the "2017Anderson Report"). I had previously reviewed
12 Mr. Anderson's expert report dated November 19, 2018 in connection with the preparation of my
13 expert report in this matter (the "2018 Anderson Report").

14 3. The stated purpose of the 2017 Anderson Report was to develop opinions regarding
15 the market value of a fee simple interest, fair market rent, and the market value of a leased fee
16 interest related to the aforementioned property. The valuation dates relevant to the 2017Anderson
17 Report were September 6, 2011 (the date the 4th Amendment was executed) and September 1,
18 2013 (the first month Clark County paid the Bureau of Land Management rent pursuant to the 4th
19 Amendment).

20 4. The 2017 Anderson Report considered the underlying property to be vacant and
21 available for development for its highest and best use. (Cover Letter dated July 26, 2017.) The
22 2017 Anderson Report also included an opinion of the leased fee value, subject to the original
23 lease with Nevada Links, consistent with the 4th Amendment.

24 5. The 2017 Anderson Report calculated the leased fee interest of the property to be
25 \$9,665,000 including rental income associated with the 4th Amendment. (2017 Anderson Report,
26 p.5.) I have used the methodologies employed in the 2017 Anderson Report to compute alternative
27 values of the property as of September 6, 2011. My alternative calculations modify three variables
28 used in the 2017 Anderson Report: 1) the discount rate, 2) the lease duration, and 3) whether rental

1 income on the property is included.

2 6. I have used three discount rates for my calculations. The first discount rate, 7%, is
3 identical to the rate employed by Mr. Anderson in the 2017 Anderson Report. The second discount
4 rate, 9%, is the rate employed by Mr. Anderson in the 2018 Anderson Report and employed by
5 Evan Ranes, expert appraiser for the County of Clark, in his November 19, 2018 report. The third
6 discount rate, 14%, is the discount rate employed by Nevada Links' appraisal expert, Mr.
7 DiFederico in his November 19, 2018 report. I addressed these discount rates on pages twenty-two
8 and twenty-three of my expert report.

9 7. I have used two different lease durations. As of September 2011, the lease had 38-
10 years remaining on the initial 50-year term (*i.e.*, an option to renew the lease was scheduled to
11 occur in July 2049). (Anderson 2017 Report, p.162.) Correspondingly, if the renewal option were
12 exercised, the lease would have expired in in July 2098. (*See* Regan Report, p.2.)

13 8. Finally, I have prepared calculations both with and without projected rental income
14 from the 4th Amendment.

15 9. In all other ways, my calculations use the same data and methods as Mr. Anderson.
16 The table below summarizes the relevant variables used in both analyses:

Variable	Amount	Basis
First-year rent	\$100,000	2017 Anderson Report at 66
Date first rent due	September 6, 2011	<i>Id.</i> at 166
Annual rent increase	2%	<i>Id.</i> at 166
Annual expenses	1%	<i>Id.</i> at 166
Land value in September 2011	\$50,730,000	<i>Id.</i> at 167
Annual appreciation for land reversion	2%	<i>Id.</i> at 167
Cost to sell property	3%	<i>Id.</i> at 168

23 10. I have summarized my calculations of the market value of a leased fee interest in
24 the table below. The first scenario (7% discount rate, including 4th Amendment rent, and no lease
25 renewal) replicates Mr. Anderson's calculation:
26
27
28

Scenario	Description	7% DCF Rate	9% DCF Rate	14% DCF Rate
1	50 Year DCF With 4th Amendment Rent	\$9,670,000	\$5,260,000	\$1,530,000
2	50 Year DCF Without 4th Amendment Rent	\$8,010,000	\$3,960,000	\$720,000
3	99 Year DCF With 4th Amendment Rent	\$2,680,000	\$1,550,000	\$830,000
4	99 Year DCF Without 4th Amendment Rent	\$730,000	\$140,000	\$0

11. My calculations are presented in the schedules attached herein. (See Ex.R, Schedule 1.0.)

12. I have also calculated the fair market rent based upon the market value of the leased fee interest using at 7.0% rate of return, which is the rate of return that Mr. Anderson uses to calculate fair market rent. These amounts are calculated in the table below:

Scenario	Description	7% DCF Rate	9% DCF Rate	14% DCF Rate
1	50 Years With 4th Amendment Rent	\$676,900	\$368,200	\$107,100
2	50 Years Without 4th Amendment Rent	\$560,700	\$277,200	\$50,400
3	99 Years With 4th Amendment Rent	\$187,600	\$108,500	\$58,100
4	99 Years Without 4th Amendment Rent	\$51,100	\$9,800	\$0

13. My calculations are presented in the schedules attached herein. (See *id.*)

I declare under penalty of perjury that the foregoing is true and correct and that I signed this declaration on this 1st day of March 2020.

By

Gre gRegan